IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2356 OF 2006
IN
C.R.NO.451 OF 2005
IN
SESSIONS CASE NO.965 OF 2005

Pradeep Valjibhai Parmar ... Applicant

V/s.

The State of Maharashtra & Ors. ...Respondents.

Mr. Shirish Gupte i/b Sr.Advocate B.K. Barve & Co. for the applicant.
Ms.P.H. Kantharia APP for the State.

CORAM : V.M. KANADE, J

DATED : 03/08/2006

P.C.:-

1. Heard learned counsel appearing on behalf of the applicant and learned counsel appearing on behalf of the State. This is a second application for bail filed by the applicant. His earlier application was rejected by this court by order dated 29th March, 2006. It is submitted that certain documents were not brought to the notice of this court as applicant was not aware of the statement and after the order was passed, applicant

learned about retraction of statement made by the complainant and therefore second application has been filed. It is also submitted by the learned counsel for the applicant that apart from the fact that the statement of the complainant has been retracted by her, she filed petition in this court in which she stated that the allegation against the applicant made by her, was incorrect. Further it is submitted that petition was allowed to be withdrawn and direction was given that she should approach appropriate forum at appropriate time. It is further submitted that applicant is in custody since the last ten months and investigation in this case is over and therefore, continued detention of the present applicant is not necessary. Learned counsel for the applicant invited my attention to the statement of the complainant dated 2/11/2005 which was recorded by the Extortion Cell. Learned counsel for the applicant submitted that in the said statement complainant has clearly stated that applicant had never misbehaved with her during the period when she was in his employment.

3. Learned APP appearing on behalf of the State, on the other hand, submitted that so far case of extortion is concerned, this aspect is considered by the Sessions

Court when his first application was rejected by the Sessions Court and therefore, the applicant was very well aware about the facts of the said case. It is submitted that therefore, there was not a new circumstance. It is also submitted that so far as second application of the applicant is concerned, the very fact that the complaint was recorded by the complainant earlier was retracted by her itself was an indication that even though the applicant is in jail, the applicant has obviously tampered with the evidence and therefore, said retraction has been made. It is submitted that this aspect about probative value of her evidence was only to be considered at the stage of trial and this can not be ground for seeking bail.

4. I have given anxious consideration to the submissions of learned counsel for the applicant and respondents. Allegations which are made against the applicant are very serious. I have gone through the nature of the allegations and the material which is on record in para 6 of the order dated 29th March, 2006.

5. Merely because complainant has retracted her statement subsequently by itself is not a proper ground

for releasing the applicant on bail, particularly when similar case has been filed against him and in which case similar allegations have been made against the applicant. Bail has been rejected by the trial court. Possibility of the applicant tampering with the evidence, if he is released on bail, can not be ruled out. Considering the extent and manner in which the applicant has carried on his activities can be seen from the statements of witnesses who have in turn stated about conduct of the applicant. Under this circumstances, in my view, this is not a fit case for grant of bail.

6. Application, is accordingly, disposed of.

V.M. KANADE, J.